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14 Attorneys for Plaintiff
15 VERIGY US, INC.

16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 SAN JOSE DIVISION

19 VERIGY US, INC, a Delaware Corporation,

20 Plaintiff,

21 vs.

22 ROMI OMAR MAYDER, an individual;
23 WESLEY MAYDER, an individual; SILICON
24 TEST SYSTEMS, INC., a California Corporation;
25 and SILICON TEST SOLUTIONS, LLC, a
26 California Limited Liability Corporation,
27 inclusive,

28 Defendants.

Case No. C07 04330 RMW (HRL)

**DECLARATION OF MELINDA M.
MORTON IN SUPPORT OF VERIGY'S
ADMINISTRATIVE MOTION TO
CLARIFY DEFENDANTS' MOTION FOR
"MODIFICATION" OR, IN THE
ALTERNATIVE, MOTION TO ENLARGE
TIME TO RESPOND TO DEFENDANTS'
MOTION FOR "MODIFICATION"**

Courtroom: 6
Hon. Ronald M. Whyte

Complaint Filed: August 22, 2007
Trial Date: None Set

1 1. I am an attorney licensed to practice law before all of the courts of the State of
2 California. I am a partner in the law firm of Bergeson, LLP, counsel of record for plaintiff Verigy
3 US, Inc. ("Verigy") in the above-captioned action. I have personal knowledge of the facts set
4 forth in this declaration, and, if called to do so, I could and would competently testify thereto.

5 2. I submit this declaration in support of Verigy's administrative motion to clarify
6 defendants' motion for "modification" of the preliminary injunction and, in the alternative, motion
7 to enlarge time to respond to defendants' motion for modification (the "Administrative Motion").

8 3. Mr. Jack Russo submitted a declaration on July 18, 2008 in opposition to Verigy's
9 Administrative Motion. His declaration suggests that Verigy's counsel was not forthcoming to the
10 Court with respect to Defendants' response to Verigy's request for a stipulation to extend time.
11 The declaration is inaccurate in this respect.

12 4. Mr. Stebbins of my office sent an email to Defendants' counsel on Monday, July
13 14, 2008 asking for such a stipulation and asking that Defendants respond by "tomorrow
14 afternoon." (See Ex. B to Stebbins Decl., Docket No. 264.)

15 5. The only response we received from Defendants' counsel prior to filing the
16 administrative motion was an email the next morning from Mr. Russo stating that these orders
17 should be heard on *accelerated time*. (See Stebbins Decl, Ex. C.)

18 6. I sent an email to Mr. Russo in response to his email on July 15, 2008 at 7:05 am,
19 asking that he confirm by noon that day whether he was refusing to agree to extended time. I did
20 not receive a response to my request from Mr. Russo by noon that day. I did receive several
21 emails from Mr. Russo that afternoon on other subjects.

22 7. The Administrative Motion was filed on July 15, 2008 at 6:54 p.m. A true and
23 correct copy of the email from the CM/ECF system verifying the time of filing is attached hereto
24 as Exhibit 1.

25 8. Mr. Russo sent an email to me on July 15, 2008 at 7:38 p.m., almost an hour after
26 the Administrative Motion had been efiled. The CM/ECF notice indicates that Mr. Russo was
27 copied on the email notification. Mr. Russo's 7:38 p.m. email did suggest that Defendants would
28 agree to a stipulation provided that Verigy agree to certain terms. However, these terms were not

1 limited to Verigy “providing certain information and/or documents that Defendants need to
2 prepare for upcoming depositions.” The terms also included provisions that would allow Mr.
3 Mayder to work with Intel, Spansion and Numonyx, among others, to test the Flash Enhancer
4 product. As Verigy believed these terms to modify the current preliminary injunction, and as the
5 Administrative Motion had already been filed, Verigy did not respond to Mr. Russo’s belated
6 suggested stipulation. Mr. Russo’s declaration purported to describe his email, but did not include
7 it. Attached hereto as Exhibit 2 is a true and correct copy of Mr. Russo’s July 15 email to me.
8 Exhibit 2 also includes my July 15 email to Mr. Russo, referenced in paragraph 6, *supra*.

9
10 I declare under penalty of perjury under the laws of the United States of America that the
11 foregoing is true and correct and that this declaration was executed this 21st day of July, 2008 at
12 San Jose, California.

13 _____/s/
14 Melinda M. Morton
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